

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14676, of Anna Mack, pursuant to 11 DCMR 3108.1, for a special exception under Section 2003 to change a nonconforming use from a beauty parlor, first floor, to a restaurant and carryout in an R-4 District at premises 818 Rhode Island Avenue, N.W., (Square 396, Lot 805).

Application No. 14677, of Anna Mack, pursuant to 11 DCMR 3108.1, for a special exception under Section 2003 to change a nonconforming use from tailor shop and sale of clothing, part of first floor, to a retail gift shop and bookstore in an R-4 District at premises 816 Rhode Island Avenue, N.W., (Square 396, Lot 28).

HEARING DATE: September 30, 1987
DECISION DATE: September 30, 1987 (Bench Decision)

FINDINGS OF FACT:

1. At the public hearing Application Nos. 14676 and 14677 were consolidated to be heard concurrently. The sites, known as premises 816 and 818 Rhode Island Avenue, are contiguous and, are located at the northwest corner of the intersection of Rhode Island Avenue and 9th Street, N.W. The sites are located in the R-4 District.

2. The R-4 District encompasses the square in which the sites are located and extends further to the south and west. This area is improved with row dwellings and apartments. A C-2-A District is located a block away from the site along 7th Street. A C-2-B and C-M-1 District are located a block and a half are two blocks away. An R-5-C District improved with an apartment house is located to the north of the site across Rhode Island Avenue.

3. The site known as premises 816 Rhode Island Avenue, lot 805, is irregularly shaped with a frontage of 18.04 feet along Rhode Island Avenue and 41.0 feet along 9th Street. The lot extends to the rear of 818 Rhode Island Avenue, lot 28. Lot 28 has a frontage of 15.08 feet along Rhode Island Avenue and average depth of approximately 46.00 feet. Lots 805 and 28 are improved with adjoining two story masonry structures.

4. Pursuant to Sub-section 3108.1 of the Zoning Regulations the applicant is seeking special exceptions under Section 2003 to change nonconforming uses from a

beauty parlor, first floor, to a restaurant and carryout for lot 805 and to change a tailor shop and sale of clothing part of first floor, to a retail gift shop and bookstore for lot 28.

5. Certificate of Occupancy duplicate to No. B6163 dated October 19, 1982, originally dated April 24, 1959, allowed the first floor of the structure t lot 805 to be used as a beauty parlor. Certificate of Occupancy No. B45273 dated May 8, 1964 allowed part of the first floor of the structure located at lot 28 to be used as a tailoring shop, sale of clothing. Both areas are presently vacant.

6. The structure at lot 28 will provide living accommodations on the second floor.

7. The restaurant will serve meals between the hours of 7:00 A.M. and 11:00 P.M. and close at 12:00 midnight.

8. The store will be open to the public between the hours of 7:00 A.M. through 11:00 P.M. The store will close at 12 midnight allowing an hour for clean up.

9. Four employees will work at the restaurant. Three employees will work at the book store. An additional two persons will perform maintenance tasks at the site. Two additional persons will work as security guards at the site.

10. The restaurant will serve breakfast, lunch, dinner, desserts, drinks and snacks which may be taken out or eaten on the premises.

11. All employees of the business operations will reside at the site. The only parking needed for the residents of the structure is one space for a van.

12. Deliveries will be made to the front of the structures as no alley access is available.

13. Trash will be removed from the site five times weekly. The premises will be exterminated on a regular basis.

14. On street parking is available on Rhode Island Avenue, 9th Street and Q Street adjacent to the subject square. Approximately 90 percent of the operations customers will come from the surrounding neighborhood.

15. Small spotlit signs will be located over the bookstore and restaurant.

16. Advisory Neighborhood Commission (ANC) 2C submitted no report on the application.

17. A neighbor of the site testified in support of the application. Numerous neighbors of the site submitted a petition and or letter to the record in support of the application provided that the site not generate improperly disposed of trash.

18. There was no opposition to the application at the public hearing or of record.

CONCLUSIONS OF LAW AND OPINION:

Based on the Findings of Fact and the evidence of record, the Board concludes that the applicant is seeking a special exception, the granting of which requires substantial evidence that the applicant has complied with the requirements of 11 DCMR Sub-section 3108.1 and Section 2003.

The Board concludes that the applicant has met the burden of proof. A barber shop, beauty parlor, restaurant and bookstore are all first permitted as a matter-of-right in the C-1 District. The structure has a long history of nonconforming uses. The proposed use will not create any deleterious effects. All the operations will be confined almost entirely to the interior of the structure. Since it is expected that 90 percent of the business' customers will walk to the site, no significant traffic problems will result. The proposed use will be a neighborhood facility.


The Board further concludes that the special exception can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map and it will not affect adversely the use of neighboring property. Accordingly, it is ORDERED that the application is GRANTED SUBJECT to the following CONDITIONS:

1. Operation of the facilities shall be limited to the lessee, the Nubian Islamic Hebrews.
2. The hours of operation shall not exceed from 7:00 A.M. to 12 midnight.
3. The total number of employees at both sites shall not exceed eleven.
4. Trash shall be picked up three times per week. Extermination of the premises shall be once per month.

VOTE: 4-0 (Maybelle T. Bennett, Charles R. Norris, William F. McIntosh and Carrie L. Thornhill to grant; Paula L. Jewell not present, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


EDWARD L. CURRY
Executive Director

NOV 9 1977

FINAL DATE OF ORDER: _____

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

14676&14677order/LJP26